

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6801

BILL NUMBER: SB 199

NOTE PREPARED: Jan 1, 2008

BILL AMENDED:

SUBJECT: Environmental Crimes.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill repeals environmental crimes statutes, and substitutes a statute that (1) provides that knowing, intentional, or reckless violation of certain environmental statutes is an environmental crime; (2) provides that knowing, intentional, or reckless violation of certain permits is an environmental crime, and that knowing, intentional, reckless, or negligent violation of a National Pollutant Discharge Elimination System (NPDES) permit is an environmental crime; (3) eliminates as an element of those crimes the causing of certain types of risk or harm, but requires consideration of that factor in sentencing; and (4) eliminates the defense that the person did not know and could not reasonably have been expected to know that the person's actions were capable of causing those types of risk or harm, but requires consideration of that factor in sentencing.

Effective Date: July 1, 2008.

Explanation of State Expenditures: The bill restructures the environmental crimes statute and could potentially include more types of violations. Existing law cites violations of air pollution control law, water pollution control law, and statute that relates to hazardous and solid waste. The proposal adds violations of environmental management laws and pollution control laws. Additionally, existing law includes causing harm as an element of the crime. Under the proposal, a crime occurs if a violation occurs regardless of harm. The extent to which harm is caused is considered in the sentencing.

The overall impact is not expected to be significant because the majority of environmental violations are handled through civil enforcement means. Criminal prosecution is rare.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years

or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C felony is \$10,000. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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